

ORIGINAL

edwardguerrero@plea

LEONARDO M. RAPADAS  
United States Attorney  
KRISTIN D. ST. PETER  
Special Assistant U.S. Attorney  
Sirena Plaza, Suite 500  
108 Hernan Cortez Avenue  
Hagåtña, Guam 96910  
PHONE: (671) 472-7332  
FAX: (671) 472-7334

Attorneys for the United States of America

**FILED**

DISTRICT COURT OF GUAM

APR 24 2007

MARY L.M. MORAN  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
EDWARD M.C. GUERRERO,  
Defendant.

CRIMINAL CASE NO. 07-00022

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, EDWARD M.C. GUERRERO, enter into the following plea agreement:

1. The defendant, EDWARD M.C. GUERRERO agrees to enter a guilty plea to Count II of an Indictment charging him with Accessing Device Fraud, in violation of Title 18, United States Code, Section 1029.

In exchange for the defendant's guilty plea to Count II of the Indictment, the government agrees to dismiss Count I of the Indictment upon sentencing. The government will recommend

1 that defendant receive the low end of the sentencing guidelines, a fine, and credit for time  
2 served, if any.

3 2. The defendant understands that the maximum sentence for Accessing Device Fraud in  
4 an amount more than \$1,000.00, in violation of 18 U.S.C. § 1029, as a Class C felony as  
5 specified in 18 U.S.C. § 3559, is imprisonment for not more than ten years and a maximum fine  
6 of \$250,000.00, together with any restitution as the court may order, and a \$100 special  
7 assessment fee as set forth in 18 U.S.C. § 3013. Any sentence of incarceration may include a  
8 term of supervised release of not more than three years as set forth in 18 U.S.C. § 3583(b)(2). If  
9 the court revokes a sentence of supervised release, the court may incarcerate the defendant up to  
10 an additional term of not more than two year. The \$100 special assessment fee must be paid  
11 upon sentencing.

12 If defendant is financially unable to immediately pay the fine in full, defendant agrees to  
13 make a full disclosure of his financial status to the United States Attorney's Office by completing  
14 a Financial Disclosure Form (OBD-500) for purposes of fixing a monthly payment schedule.  
15 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

16 3. The defendant understands that to establish a violation of Accessing Device Fraud, in  
17 violation of 18 United States Code, Section 1029, the government must prove each of the  
18 following elements beyond a reasonable doubt:

19 First, the defendant knowingly used an unauthorized access device, e.g. a credit card, at  
20 any time during a one-year period;

21 Second, by using the unauthorized access devices during that period, the defendant  
22 obtained things of value, their value together totaling \$1,000 or more during that period;

23 Third, the defendant acted with the intent to defraud; and

24 Fourth, the defendant's conduct in some way affected commerce between one state and  
25 another state, or between a state or the United States and a foreign country.

4. The defendant understands that the Sentencing Guidelines are advisory only. The Court may still utilize the sentencing guidelines as an aid to determine the sentence to be imposed. The government and the defendant stipulate to the following facts for purposes of the sentencing:

a. The defendant was born in 1985, and is a citizen of the United States.

b. On or about December 2006, in the District of Guam, the defendant, EDWARD M.C. GUERRERO, knowingly and with intent to defraud used one unauthorized access device(s) as defined in subsections (e)(1) and (3) e.g. a Citibank credit card No. XXXX060249352101, and by such conduct, from on or about December 20, 2006 and ending on or about December 31, 2006, obtained items of values aggregating to an amount of \$1,543.00, said use affecting interstate or foreign commerce, in that the stolen or fraudulently obtained credit card is serviced by a Citibank call centered located in Manila, Philippines and Citibank is a multinational corporation with banking entities throughout the United States and the world, in violation of 18 U.S.C. 1029(a)(2).

5. The defendant understands that notwithstanding any agreement of the parties, the United States Probation Office will make an independent application of the Sentencing Guidelines or determine an appropriate sentencing range. The defendant acknowledges that should there be discrepancies in the final Sentencing Guidelines or sentencing range, projected by his counsel or any other person, such discrepancy is not a basis to withdraw his guilty plea.

6. The defendant agrees to pay restitution as appropriate to the Mrs. Mariana Aigiamaua of Guam.

7. The defendant agrees to waive any right to appeal or to collaterally attack his conviction. The defendant reserves the right to appeal the sentence actually imposed in his case.

8. The defendant acknowledges that he has been advised of his rights as set forth below prior to entering into his plea agreement. Specifically, defendant has been fully advised of, has had sufficient opportunity to reflect upon, and understands the following:

1 a. The nature and elements of the charge ~~and the mandatory minimum penalty provided~~  
2 ~~by law, if any,~~ and the maximum possible penalty provided by law;

3 b. His right to be represented by an attorney;

4 c. His right to plead not guilty and the right to be tried by a jury and at that trial, the right  
5 to be represented by counsel, the right to confront and cross-examine witnesses against him, and  
6 the right not to be compelled to incriminate himself, that is, the right not to testify;

7 d. That if he pleads guilty, there will not be a further trial of any kind on the charges to  
8 which such plea is entered so that by entering into the plea agreement, he waives, that is, gives  
9 up, the right to a trial;

10 e. That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions  
11 about the offenses to which he has pled, under oath, and that if he answers these questions under  
12 oath, on the record, his answers may later be used against him in a prosecution for perjury or  
13 false statement if an answer is untrue;

14 f. That he agrees that the plea agreement is voluntary and not a result of any force,  
15 threats or promises apart from his plea agreement;

16 g. That he reads, writes and speaks the English language and has no need for an  
17 interpreter;

18 h. That he has read the plea agreement and understands it; and

19 //

20 //

21 //

22 //

23 //

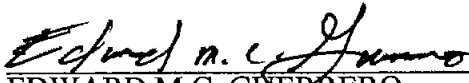
24 //

25 //


26 //

1 i. The Defendant is satisfied with the representation of his lawyer and feels that his  
2 lawyer has done everything possible for his defense.

3  
4 DATED: 4-17-07

  
EDWARD M.C. GUERRERO  
Defendant

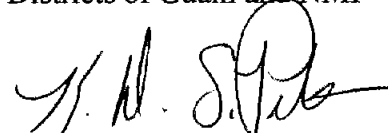
6  
7 DATED: 4/17/07

  
JOHN T. GORMAN  
Attorney for Defendant


10 LEONARDO M. RAPADAS  
11 United States Attorney  
12 Districts of Guam and NMI

13 DATED: 4/24/07

By:

  
KRISTIN D. ST. PETER  
Special Assistant U.S. Attorney

15  
16 DATED: 4/24/07

  
JEFFREY J. STRAND  
First Assistant U.S. Attorney